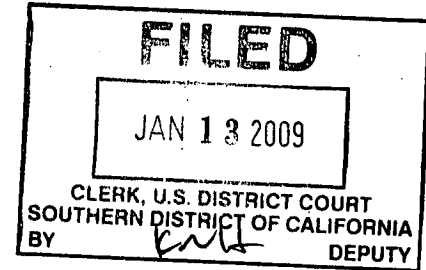


ORIGINAL

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

LISA McCONNELL, INC., d.b.a. IMAGE)
 ONE, a California Corporation,)

Plaintiff,)

v.)

IDEARC, INC., doing business as IDEARC)
 MEDIA, SUPERPAGES.COM and)
 VERIZON YELLOW PAGES, a)
 corporation; IDEARC MEDIA CORP., a)
 corporation; IDEARC MEDIA SALES)
 WEST, INC., a corporation; IDEARC)
 MEDIA SERVICES - WEST, INC., a)
 corporation; VERIZON)
 COMMUNICATIONS, INC., a corporation;)
 VERIZON YELLOW PAGES COMPANY,)
 a corporation; and DOES 1 through 10,)
 inclusive,)

Defendants.)

Case No.: **09 CV 0 061 IEG AJB**

COMPLAINT FOR:

- (1) COPYRIGHT INFRINGEMENT UNDER 17 U.S.C. §101, *et. seq.*;
- (2) VICARIOUS COPYRIGHT INFRINGEMENT;
- (3) CONTRIBUTORY COPYRIGHT INFRINGEMENT; AND
- (4) FALSE DESIGNATION OF ORIGIN UNDER SECTION 43(a) OF THE LANHAM ACT, 15 U.S.C. § 1125(a)
- (5) UNFAIR COMPETITION (CALIF. BUSINESS & PROFESSIONS CODE 17200 ET SEQ.)

[PLAINTIFFS DEMAND JURY TRIAL PER F.R.C.P. 38]

Plaintiff LISA McCONNELL, INC., d.b.a. IMAGE ONE (hereinafter referred to as "Plaintiff" or "IMAGE ONE") alleges against the above-named Defendants as follows:

NATURE OF ACTION

1. This is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §§ 101, *et seq.*; for trademark infringement under Section 43(a) of the Lanham Act, 15

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1 U.S.C. 1125(a); for unfair business practices under California Business & Professions Code section
2 17200; and for related counts thereto.

3 **JURISDICTION**

4 1. Jurisdiction is proper in this Court in that there is in issue a federal question
5 concerning the infringement of various copyrights and trademarks, and a related state law cause
6 of action for unfair competition and other unfair business practices, by virtue of 28 U.S.C. §§ 1331,
7 1338 and 1367.

8 **VENUE**

9 2. Venue in this action properly lies in the Southern District of California under 28
10 U.S.C. §§ 1391 and 1400(a) in that the defendants are believed to reside in this judicial district as
11 defined by Section 1391(c), and in that a substantial part of the events or omissions giving rise to
12 the claim occurred in the Southern District of California, where the Defendants have published
13 infringing advertisements and have derived significant income from advertisement sales to the
14 public related to the infringement claims at issue herein.

15 **THE PARTIES**

16 3. Plaintiff, IMAGE ONE, is, and at all times herein mentioned was, a California
17 corporation duly organized and existing under and by virtue of the laws of the State of California
18 with its principal place of business in the City of San Diego, County of San Diego, State of
19 California.

20 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants, and
21 each of them, are and all times herein mentioned were, corporations duly organized and existing
22 under and by virtue of the laws of the State of Delaware and were duly authorized to conduct
23 business in the State of California, except that, on information and belief, defendant IDEARC, INC.
24 is not authorized to do business in the State of California except through its defendant subsidiaries,
25 and except that defendant VERIZON YELLOW PAGES COMPANY is no longer an active
26 corporation. Hereinafter all named Defendants will be collectively referred to as "Defendants".
27 On information and belief, all of the Defendants named herein have engaged in business within this
28 judicial district related to the copyright infringing advertising in issue herein. Defendant IDEARC,

1 INC. was formed by VERIZON COMMUNICATIONS, INC. and VERIZON YELLOW PAGES,
2 INC. on or about November 17, 2006 and, since that time, IDEARC, INC. and its subsidiaries have
3 published yellow pages directories for VERIZON COMMUNICATIONS, INC. as its agent. On
4 information and belief, Defendants IDEARC, INC., in turn, formed Defendants IDEARC MEDIA
5 CORP., IDEARC MEDIA SALES WEST, INC., and IDEARC MEDIA SERVICES - WEST, INC.,
6 each of which participated in the sales of yellow pages advertising, design and preparation of such
7 advertising, and publishing of yellow pages advertising, as the agent of VERIZON
8 COMMUNICATIONS, INC. and otherwise.

9 **DEMAND FOR JURY TRIAL**

10 5. Plaintiffs demand a jury trial.

11 **BACKGROUND FACTS**

12 6. Since 1993, IMAGE ONE has created and published unique and original images and
13 composites, including advertisement templates, graphic designs, text and artwork, intended for use
14 as a business.

15 7. IMAGE ONE pioneered and defined a new niche in the advertising industry in 1993.
16 By combining high-end three-dimensional graphic art in yellow page advertising, IMAGE ONE
17 created a new type advertisement in an old and familiar medium. These unique advertisements
18 created by IMAGE ONE are the subject of this Complaint (herein after referred to as the "Subject
19 Works.").

20 8. IMAGE ONE produces these high-end graphics for customers seeking to advertise
21 by unique advertisements in the yellow page telephone directories and yellow pages websites.
22 Utilizing original IMAGE ONE artwork and in a few instances, innovative and new derivations of
23 images licensed to IMAGE ONE, IMAGE ONE creates new and original artwork to develop
24 unique and distinct images which it then incorporates into templates for use in advertising.

25 9. IMAGE ONE, in the creation of its innovative advertisements, developed a new
26 market in the yellow page advertising industry. Since IMAGE ONE's inception, any new
27 competitors in this market have consistently looked to IMAGE ONE's artwork as the industry
28 standard upon which all other work is measured.

1 10. The superior quality of IMAGE ONE's original and innovative artwork and its
2 revolutionary impact on the yellow page industry is reflected in an independent study conducted
3 by the Wharton School of Business on the impact of certain yellow pages designs in generating
4 customer responses.

5 11. IMAGE ONE has complied in all respects with the copyright laws of the United
6 States of America, Title 17 U.S.C. §§ 101, et seq. IMAGE ONE has secured the exclusive rights
7 and privileges to the copyrights in approximately 451 templates and individual advertisements by
8 properly registering the same with the United States Copyright Office as of the date of this
9 Complaint. IMAGE ONE is in the process of registering, and plans to register, additional
10 templates and individual advertisements which are also the subject of this action in view of
11 Defendants' continuing acts of infringement. All such registered templates and individual
12 advertisements are hereinafter referred to as "Registered Works." IMAGE ONE has certificates
13 of registration from the United States Copyright Office or holds copies of the registration forms
14 with proof of mailing to United States Copyright Office for all of the Registered Works. Attached
15 as Exhibit "1" to the Notice of Lodgment filed concurrently herewith is a true and correct copy of
16 a list identifying the templates and individual advertisements registered by IMAGE ONE with the
17 United States Copyright Office.

18 12. IMAGE ONE currently is, and at all times relevant hereto was, the sole owner of
19 all right, title, and interest in and to the copyright in the Subject and Registered Works. IMAGE
20 ONE has produced and distributed the Subject and Registered Work in strict conformity with the
21 provisions of the Copyright Act of 1976 and all other laws governing copyright.

22 13. IMAGE ONE's work circulates throughout the country in numerous phone books
23 and on related internet yellow pages websites, giving Defendants access to IMAGE ONE's work.
24 Many third parties acquire advertisements from IMAGE ONE which are then submitted to
25 Defendants by IMAGE ONE for legitimate display and distribution. Defendants consequently had
26 access and an opportunity to copy Plaintiff's work.

27 14. In a prior copyright infringement action, IMAGE ONE filed suit against Defendants'
28 predecessors in interest GTE Directories Corporation and its subsidiaries ("GTE"); and Bell

1 Atlantic Directory Services, Inc. and Bell Atlantic Yellow Pages Company (subsequently known
2 as Verizon Directory Services, Inc. and Verizon Yellow Pages Company) ("Bell Atlantic/Verizon")
3 in actions known as United States District Court, Southern District of New York Case No. 00 Civ.
4 0181 (GEL) and as United States District Court, Southern District of California, Case No. 97-CV-
5 1259 JM (CGA). The parties to said civil actions entered into confidential settlement agreements,
6 and said predecessors in interest took a temporary license from Image One, giving Defendants time
7 to remove Plaintiff's images from Defendants' directories. Said license expired more than four
8 years prior to the filing of this Complaint. However, Defendants have continued to infringe, or
9 have resumed infringing, Plaintiff's copyrights by copying the protected work.

10 15. IMAGE ONE has reviewed a sampling of Defendants' paper telephone directories
11 and yellow pages websites for the years 2006 through 2008 and determined that Defendants have
12 been publishing advertisements which IMAGE ONE believes, and based thereon alleges, infringe
13 on IMAGE ONE's Registered Works (hereinafter referred to as "Infringing Works"). (Attached
14 collectively as Exhibit "2" to the Notice of Lodgment filed concurrently herewith are true and
15 correct copies of the Infringing Works.)

16 16. To date IMAGE ONE has only been able to obtain only a small percentage of the
17 Defendants' approximately 3,600 directories and yellow pages websites that were published by
18 Defendants during the years 2006, 2007 and 2008. IMAGE ONE is informed and believes, and
19 based thereon alleges, that based on the infringements found to date, there are at least 2,400
20 infringements based on the projection of .69 infringements per paper directory, including Infringing
21 Works that remain undiscovered from the books that still need to be reviewed, with additional
22 infringements on the aforementioned yellow pages websites.

23 17. The Infringing Works published by Defendants have appeared in telephone
24 directories published throughout the United States and on the internet. IMAGE ONE is informed
25 and believes, and based thereon alleges, that since at least as early as 2006, 2007 and 2008,
26 Defendants have been reproducing, distributing, promoting and offering for sale, illegal and
27 unauthorized copies of the Infringing Works.

28 ///

1 18. IMAGE ONE is informed and believes, and based thereon alleges, that Defendants
2 knowingly and willfully copied certain images of IMAGE ONE's Subject Works. IMAGE ONE
3 is further informed and believes, and based thereon alleges, that Defendants copied the Subject and
4 Registered Works for the specific purposes of infringing IMAGE ONE's copyrights and selling
5 illegal and unauthorized copies of the Subject and Registered Works. Attached hereto collectively
6 as Exhibit "3" to the Notice of Lodgment filed concurrently herewith are just a few examples of
7 infringing advertisements created by Defendant. The image on the left are the Defendants'
8 infringements and the images on the right are IMAGE ONE Registered Works.

9 19. IMAGE ONE has identified three distinct types of infringing advertisements
10 allegedly published by Defendants. IMAGE ONE has categorized these types of infringements as
11 Types A, B, and C for the purposes of this litigation. Type A infringements are advertisements
12 published by Defendants for businesses who are not IMAGE ONE clients and which unlawfully
13 use IMAGE ONE's Registered Work. (*See*, Exhibit "4" to the Notice of Lodgment filed
14 concurrently herewith.) Type B infringements are advertisements that were created by IMAGE
15 ONE for a client, but which have been illegally altered and republished by Defendants. (*See*,
16 Exhibit "5" to the Notice of Lodgment filed concurrently herewith.) Type C infringements are
17 advertisements which utilize IMAGE ONE's Registered Work without permission by IMAGE
18 ONE clients who have purchased a different template. (*See*, Exhibit "6" to the Notice of Lodgment
19 filed concurrently herewith.) These Type C infringements are not well done and thus harm IMAGE
20 ONE's reputation and drastically reduce IMAGE ONE's business.

21 20. IMAGE ONE is informed and believes, and based thereon alleges, that Defendants
22 are attempting to pass their advertisements off as if they are IMAGE ONE's in a manner calculated
23 to deceive IMAGE ONE's customers and members of the general public. Defendants have copied
24 the artwork in IMAGE ONE's copyrighted advertisements in an effort to make Defendants'
25 infringing products confusingly similar to IMAGE ONE's.

26 21. The natural, probable and foreseeable result of Defendants' wrongful conduct has
27 been to deprive, and it will continue to deprive, IMAGE ONE of the benefits of selling IMAGE
28 ///

1 ONE's Subject Works and its other products, to deprive IMAGE ONE of good will, and to injure
2 IMAGE ONE's relations with present and prospective customers.

3 22. IMAGE ONE is informed and believes, and based thereon alleges, that it has lost,
4 and will continue to lose, substantial revenues from the sale of the Subject and Registered Works
5 and other products and will sustain damages as a result of Defendants' wrongful conduct and
6 production and sale of the infringing advertisements. Defendants' wrongful conduct has also
7 deprived and will continue to deprive IMAGE ONE of opportunities for improving the value of its
8 goodwill.

9 23. IMAGE ONE is informed and believes, and based thereon alleges, that unless
10 enjoined by this Court, Defendants intend to continue their course of conduct and to wrongfully
11 use, infringe upon, sell and otherwise profit from IMAGE ONE's copyright protected artwork and
12 works derived from it.

13 24. As a direct and proximate result of the acts alleged above, IMAGE ONE has already
14 suffered irreparable damage and has suffered lost profits. IMAGE ONE has no adequate remedy
15 at law to redress all of the injuries that Defendants have caused and intend to cause by their
16 conduct. IMAGE ONE will continue to suffer irreparable damage and sustain loss of profits until
17 Defendants' actions alleged above are enjoined by this Court. In addition, as the direct and
18 proximate result of the acts alleged above, Defendants, and each of them, have received profits
19 resulting from their reduced costs in that they have failed to make payment to IMAGE ONE for the
20 use of IMAGE ONE's work; and from increased sales in that they have held out said work as
21 Defendants' own property and work thereby directing advertising traffic directly to Defendants that
22 otherwise would have gone to Plaintiff and to yellow pages publishers including but not limited
23 to Defendants; and otherwise. In addition, Plaintiff has lost profits in that Plaintiff's business
24 would have expanded its market greatly if Plaintiff had been able to offer Plaintiff's services as the
25 unique source nationwide for Plaintiff's protected work, whereas Plaintiff has been unable to do
26 so due to Defendants' offering Plaintiff's work as if it were Defendant's own work available
27 without compensation to the artist, thereby causing harm to the reputation and market value of
28 Plaintiff's work.

COUNT I

(Copyright Infringement)

25. IMAGE ONE incorporates by reference paragraphs 1 through 24 herein above as though the same were set forth in full herein.

26. IMAGE ONE produces high-end graphic advertisements for customers seeking to advertise through the yellow page telephone directories and yellow pages internet sites. These advertisements constitute IMAGE ONE's Subject and Registered Works.

27. The Subject and Registered Works are original creations expressed in artwork that is the exclusive and copyrighted property of IMAGE ONE. All copies, or derivations therefrom, are produced either directly by IMAGE ONE itself or, alternatively, under its authority or license. All such work has been published in conformity with the provisions of the Copyright Act, 17 U.S.C. § 101, et seq.

28. The Infringing Works thus far identified by IMAGE ONE have harmed IMAGE ONE's business reputation and drastically depleted its profits. In most cases, the Infringing Works consist of scanned copies or derivations of original IMAGE ONE artwork that fall well below the quality of the original work from which the illegal advertisements were taken. These poor reproductions have upset some of IMAGE ONE's current clients, and have caused IMAGE ONE to lose repeat business as well as new and potential clients that often mistakenly believe Defendants' advertisements are original IMAGE ONE artwork.

29. IMAGE ONE is informed and believes, and based thereon alleges, that Defendants knowingly and willfully copied IMAGE ONE's Subject and Registered Works. IMAGE ONE is further informed and believes, and based thereon alleges, that Defendants copied the Subject and Registered Works for the specific purpose of infringing IMAGE ONE's copyrights and selling illegal and unauthorized copies of the Subject and Registered Works.

30. IMAGE ONE's work circulates throughout the country in phone books published by many different publishers, including Defendants' phone books. As such, Defendants have ready and easy access to IMAGE ONE's artwork.

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1 31. Defendants' conduct infringes IMAGE ONE's exclusive copyrights in its original
2 artwork in direct violation of the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

3 32. As a direct and proximate result of Defendants' wrongful acts alleged above,
4 IMAGE ONE seeks actual damages to compensate it for the loss of profits that Defendants have
5 caused; to compensate it for the loss to the reputation and market value of Plaintiff's work that
6 Defendants have caused; and to require Defendants to disgorge and turn over to Plaintiff all of the
7 profits that Defendants have made as a result of their reduction in cost by virtue of having failed
8 to compensate Plaintiff for Plaintiff's work. To date IMAGE ONE has discovered 12
9 advertisements published by Defendants that are in violation of IMAGE ONE's Registered Works.
10 For these discovered infringements, on information and belief, and for purposes of this Complaint,
11 Defendants have gained an estimated \$600,000.00 in profits while IMAGE ONE has lost at least
12 \$36,000.00 in revenue for a total of \$636,000.00 in damages. Based upon information and belief,
13 in view of the small percentage of Defendants' ads that IMAGE ONE has yet reviewed, IMAGE
14 ONE alleges that there were an estimated 2,484 additional violating advertisements that IMAGE
15 ONE has not yet discovered, bringing the total to 2,496 estimated violating ads. IMAGE ONE is
16 informed and believes, and based thereon alleges, the actual damages for the estimated 2,496
17 violating ads will be \$132,288,000.00.

18 33. Alternatively, as a direct and proximate result of the acts alleged above, IMAGE
19 ONE may instead elect to seek statutory damages under 17 U.S.C. § 504(c), in lieu of actual
20 damages, to compensate it for the loss of profits that Defendants have caused based on Defendants'
21 infringement of IMAGE ONE's federally registered works. To date IMAGE ONE has discovered
22 12 advertisements which entitle IMAGE ONE to statutory damages recovery. For each of the
23 statutory violations IMAGE ONE respectfully asserts that it is entitled to \$150,000.00 per violation
24 due to the willful nature of Defendants' infringement. The total statutory damages claimed on the
25 12 advertisements discovered by IMAGE ONE to date is thus \$1,650,000.00. Based upon the fact
26 that IMAGE ONE, to date, has only viewed a small percentage of Defendants' total yellow pages
27 books and internet ads, based upon information and belief, IMAGE ONE alleges that a total of
28 approximately 2,484 additional advertisements remain undiscovered by IMAGE ONE, of which

1 an approximate 2,484 advertisements are in violation of IMAGE ONE's federally registered
2 artwork and will qualify for statutory damages. Accordingly, IMAGE ONE is informed and
3 believes, and based thereon alleges, the damages for these undiscovered federally registered
4 advertisements will total in excess of \$372,600,000.00, bringing the total damages to
5 \$374,250,000.00.

6 34. In addition to statutory damages or actual damage and lost profits, IMAGE ONE
7 is entitled to the recovery of attorney's fees for the collection of its damage claim pursuant to 17
8 U.S.C. § 505.

9 35. Finally, as a result of Defendants' acts, IMAGE ONE has suffered, and continues
10 to suffer, irreparable harm and injury as a result of Defendants' conduct as it did not benefit from
11 the sale of these designs. In many cases the poor quality of the reproductions produced an
12 advertisement appearing far below IMAGE ONE's standards and is reflecting negatively on its
13 products and services. Accordingly, IMAGE ONE has no adequate remedy at law, and is entitled
14 to an injunction restraining Defendants, their officers, directors, agents, employees, representatives,
15 and all persons acting in concert with them, from engaging in further acts of infringement of
16 IMAGE ONE's original artwork.

17 WHEREFOR, Plaintiff prays for judgment as set forth below.

18 **COUNT II**

19 **(Vicarious Copyright Infringement)**

20 36. IMAGE ONE incorporates by reference paragraphs 1 through 35 herein above as
21 though the same were set forth in full herein.

22 37. IMAGE ONE is informed and believes, and based thereon alleges, that where
23 Defendants did not directly engage in conduct that amounted to the unauthorized exploitation of
24 IMAGE ONE's copyrighted works, Defendants were given and received infringing copies or
25 derivations of IMAGE ONE work that was impermissibly reproduced by Defendants' advertising
26 clients.

27 ///

28 ///

1 38. By publishing the infringing copies of IMAGE ONE's copyrighted works in its
2 yellow page directories that Defendants received from its advertising clients, Defendants possessed
3 the right and ability to supervise further infringing conduct by its advertising clients which occurred
4 through the publication of said directories.

5 39. Defendants further had, and continue to have, an obvious and direct financial
6 interest in the exploitation of IMAGE ONE's copyrighted materials insofar as Defendants have a
7 direct financial interest in the publication of advertisements that Defendants prepare for their
8 clients.

9 40. Defendants' conduct vicariously infringes IMAGE ONE's exclusive copyrights
10 in its original artwork in direct violation of the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

11 41. As a direct and proximate result of Defendants' wrongful acts alleged above,
12 IMAGE ONE seeks actual damages to compensate it for the loss of profits that Defendants have
13 caused; to compensate it for the loss to the reputation and market value of Plaintiff's work that
14 Defendants have caused; and to require Defendants to disgorge and turn over to Plaintiff all of the
15 profits that Defendants have made as a result of their reduction in cost by virtue of having failed
16 to compensate Plaintiff for Plaintiff's work. To date IMAGE ONE has discovered 12
17 advertisements published by Defendants that are in violation of IMAGE ONE's Registered Works.
18 For these discovered infringements, Defendants have gained \$600,000.00 in profits while IMAGE
19 ONE has lost \$36,000.00 in revenue for a total of \$636,000.00 in damages. Based upon
20 information and belief, in view of the small percentage of Defendants' ads that IMAGE ONE has
21 yet reviewed, IMAGE ONE alleges that there were an estimated 2,484 additional violating
22 advertisements that IMAGE ONE has not yet discovered, bringing the total to 2,496 estimated
23 violating ads. IMAGE ONE is informed and believes, and based thereon alleges, the actual
24 damages for the estimated 2,496 violating ads will be \$132,288,000.00.

25 42. Alternatively, as a direct and proximate result of the acts alleged above, IMAGE
26 ONE may instead elect to seek statutory damages under 17 U.S.C. § 504(c), in lieu of actual
27 damages, to compensate it for the loss of profits that Defendants have caused based on Defendants'
28 infringement of IMAGE ONE's federally registered works. To date IMAGE ONE has discovered

1 12 advertisements which entitle IMAGE ONE to statutory damages recovery. For each of the
2 statutory violations IMAGE ONE respectfully asserts that it is entitled to \$150,000.00 per violation
3 due to the willful nature of Defendants' infringement. The total statutory damages claimed on the
4 12 advertisements discovered by IMAGE ONE to date is thus \$1,650,000.00. Based upon the fact
5 that IMAGE ONE, to date, has only viewed a small percentage of Defendants' total yellow pages
6 books and internet ads, based upon information and belief, IMAGE ONE alleges that a total of
7 approximately 2,484 additional advertisements remain undiscovered by IMAGE ONE, of which
8 an approximate 2,484 advertisements are in violation of IMAGE ONE's federally registered
9 artwork and will qualify for statutory damages. Accordingly, IMAGE ONE is informed and
10 believes, and based thereon alleges, the damages for these undiscovered federally registered
11 advertisements will total in excess of \$372,600,000.00, bringing the total damages to
12 \$374,250,000.00.

13 43. In addition to statutory damages or actual damage and lost profits, IMAGE ONE
14 is entitled to the recovery of attorney's fees for the collection of its damage claim pursuant to 17
15 U.S.C. § 505.

16 44. Finally, as a result of Defendants' acts, IMAGE ONE has suffered, and continues
17 to suffer, irreparable harm and injury as a result of Defendants' conduct as it did not benefit from
18 the sale of these designs. In many cases the poor quality of the reproductions produced an
19 advertisement appearing far below IMAGE ONE's standards and is reflecting negatively on its
20 products and services. Accordingly, IMAGE ONE has no adequate remedy at law, and is entitled
21 to an injunction restraining Defendants, their officers, directors, agents, employees, representatives,
22 and all persons acting in concert with them, from engaging in further acts of infringement of
23 IMAGE ONE's original artwork.

24 WHEREFOR, Plaintiff prays for judgment as set forth below.

25 **COUNT III**

26 **(Contributory Copyright Infringement)**

27 45. IMAGE ONE incorporates by reference paragraphs 1 through 44 herein above as
28 though the same were set forth in full herein.

1 46. IMAGE ONE is informed and believes, and based thereon alleges, that where
2 Defendants did not directly engage in conduct that amounted to the unauthorized exploitation of
3 IMAGE ONE's copyrighted works, Defendants were given and received infringing copies or
4 derivations of IMAGE ONE work that was impermissibly reproduced by Defendants' advertising
5 clients. In addition, Defendants VERIZON COMMUNICATIONS, INC. and VERIZON
6 YELLOW PAGES, on information and belief, entered into a contract with Defendant IDEARC,
7 INC. (a VERIZON spin-off corporation) by which IDEARC, INC. and its defendant related entities
8 provided, and continue to provide, telephone directories for VERIZON customers. In preparing
9 such directories for VERIZON customers, IDEARC, INC. and its related entity defendants have
10 continued to use infringing images previously used by VERIZON TELECOMMUNICATIONS,
11 INC., VERIZON YELLOW PAGES, and their related entities, such that Defendants VERIZON
12 COMMUNICATIONS, INC. continued to derive a profit from the copyright infringement
13 performed by IDEARC, INC. and its related entity defendants. VERIZON
14 TELECOMMUNICATIONS, INC. ("VERIZON") knew of the nature and copyright protection
15 attributable to Plaintiff's work by virtue of the previously settled copyright infringement litigation
16 mentioned above, and VERIZON thus had actual knowledge of the continued infringement after
17 a expiration of the temporary license, and at the time when VERIZON spun off IDEARC, INC.
18 Moreover, VERIZON therefor had actual knowledge sufficient to inform VERIZON that the
19 IDEARC, INC. directories prepared for VERIZON under said contract, were infringing on
20 Plaintiff's copyrights, and VERIZON continued to infringe on said copyrights by making use of
21 the IDEARC directories prepared under contract for VERIZON customers.

22 47. Defendants knew or should have known that the unauthorized reproductions or
23 derivations of IMAGE ONE's copyrighted works that Defendants received from their advertising
24 clients were infringing works, and by furnishing the means and materials by which said work could
25 be further infringed in Defendants' yellow page directories, Defendants induced, caused, and
26 materially contributed to the infringing conduct of its advertising clients.

27 48. In furnishing the means and materials by which IMAGE ONE's copyrighted works
28 could be impermissibly reproduced or altered in Defendants' yellow page directories, Defendants

1 either knew that the work it received from its advertising clients was illegitimate, or, alternatively,
2 where Defendants lacked such prior knowledge, Defendants should have known the works were
3 illegitimate because Defendants failed reasonably investigate or inquire as to whether the artwork
4 it received from its clients was original work or an authorized copy licensed by the true copyright
5 owner. Moreover, Defendant VERIZON COMMUNICATIONS, INC. either knew that the work
6 it received from IDEARC, INC. and its related entity defendants, was illegitimate, or, alternatively,
7 where VERIZON lacked such prior knowledge, VERIZON should have known the works were
8 illegitimate because VERIZON failed reasonably investigate or inquire as to whether the artwork
9 it received in the directories prepared by defendant IDEARC, INC. under contract with VERIZON
10 was an authorized copy licensed by the true copyright owner.

11 49. Defendants further had, and continue to have, an obvious and direct financial
12 interest in the exploitation of IMAGE ONE's copyrighted materials insofar as Defendants have
13 profited from the publication of these advertisements it prepares on behalf of its clients, and in that
14 VERIZON has profited from the delivery of the IDEARC, INC. directories to VERIZON
15 customers, whether identified on the cover as VERIZON directories or otherwise.

16 50. Defendants' conduct contributorily infringes IMAGE ONE's exclusive copyrights
17 in their original artwork in direct violation of the Copyright Act of 1976, 17 U.S.C. § 101, *et seq.*

18 51. As a direct and proximate result of Defendants' wrongful acts alleged above,
19 IMAGE ONE seeks actual damages to compensate it for the loss of profits that Defendants have
20 caused; to compensate it for the loss to the reputation and market value of Plaintiff's work that
21 Defendants have caused; and to require Defendants to disgorge and turn over to Plaintiff all of the
22 profits that Defendants have made as a result of their reduction in cost by virtue of having failed
23 to compensate Plaintiff for Plaintiff's work. To date IMAGE ONE has discovered 12
24 advertisements published by Defendants that are in violation of IMAGE ONE's Registered Works.
25 For these discovered infringements, Defendants have gained \$600,000.00 in profits while IMAGE
26 ONE has lost \$36,000.00 in revenue of \$636,000.00 in damages. Based upon information and
27 belief, in view of the small percentage of Defendants' ads that IMAGE ONE has yet reviewed,
28 IMAGE ONE alleges that there were an estimated 2,484 additional violating advertisements that

1 IMAGE ONE has not yet discovered, bringing the total to 2,496 estimated violating ads. IMAGE
2 ONE is informed and believes, and based thereon alleges, the actual damages for the estimated
3 2,496 violating ads will be \$132,288,000.00.

4 52. Alternatively, as a direct and proximate result of the acts alleged above, IMAGE
5 ONE may instead elect to seek statutory damages under 17 U.S.C. § 504(c), in lieu of actual
6 damages, to compensate it for the loss of profits that Defendants have caused based on Defendants'
7 infringement of IMAGE ONE's federally registered works. To date IMAGE ONE has discovered
8 12 advertisements which entitle IMAGE ONE to statutory damages recovery. For each of the
9 statutory violations IMAGE ONE respectfully asserts that it is entitled to \$150,000.00 per violation
10 due to the willful nature of Defendants' infringement. The total statutory damages claimed on the
11 12 advertisements discovered by IMAGE ONE to date is thus \$1,650,000.00. Based upon the fact
12 that IMAGE ONE, to date, has only viewed a small percentage of Defendants' total yellow pages
13 books and internet ads, based upon information and belief, IMAGE ONE alleges that a total of
14 approximately 2,484 additional advertisements remain undiscovered by IMAGE ONE, of which
15 an approximate 2,484 advertisements are in violation of IMAGE ONE's federally registered
16 artwork and will qualify for statutory damages. Accordingly, IMAGE ONE is informed and
17 believes, and based thereon alleges, the damages for these undiscovered federally registered
18 advertisements will total in excess of \$372,600,000.00, bringing the total damages to
19 \$374,250,000.00.

20 53. In addition to statutory damages or actual damage and lost profits, IMAGE ONE
21 is entitled to the recovery of attorney's fees for the collection of its damage claim pursuant to 17
22 U.S.C. § 505.

23 54. Finally, as a result of Defendants' acts, IMAGE ONE has suffered, and continues
24 to suffer, irreparable harm and injury as a result of Defendants' conduct as it did not benefit from
25 the sale of these designs. In many cases the poor quality of the reproductions produced an
26 advertisement appearing far below IMAGE ONE's standards and is reflecting negatively on its
27 products and services. Accordingly, IMAGE ONE has no adequate remedy at law, and is entitled
28 to an injunction restraining Defendants, their officers, directors, agents, employees, representatives,

1 and all persons acting in concert with them, from engaging in further acts of infringement of
2 IMAGE ONE's original artwork.

3 WHEREFOR, Plaintiff prays for judgment as set forth below.

4 **COUNT IV**

5 **(False Designation of Origin Under Section 43(a) of the Lanham Act**
6 **[15 U.S.C. §1125(a)]**

7 55. IMAGE ONE incorporates by reference paragraphs 1 through 54 herein above as
8 though the same were set forth in full herein.

9 56. IMAGE ONE creates high-end, inherently distinctive, three-dimensional yellow
10 page advertisements custom tailored to their clients' needs. These yellow page advertisements are
11 published in numerous telephone directories nationwide.

12 57. IMAGE ONE has expended considerable time, effort and sums of money
13 developing, publishing and disseminating promotional artwork and advertising materials that
14 exemplify the distinctiveness of its artwork as compared to the more generic, low quality yellow-
15 page artwork that is prepared and produced in-house by the various large yellow page publishers
16 throughout the United States.

17 58. As a result of IMAGE ONE's activities and efforts in this regard, the yellow page
18 advertisement industry and the public at large who purchase yellow page advertisements and
19 artwork on a regular basis have come to identify the unique and distinctive configuration and trade
20 dress associated with IMAGE ONE's business. Evidence of this association is supported by an
21 independent study that was conducted by Gerald Lohse of the Wharton School of business in
22 Pennsylvania, which concluded that IMAGE ONE artwork was four times more effective than a
23 typical "Black and White" yellow page advertisement in its ability to generate customer responses
24 compared to the standard advertisement produced elsewhere. As such, IMAGE ONE artwork has
25 created a distinct visual and source identifying impression in the minds of yellow page advertising
26 consumers to such a degree that this unique artwork has acquired secondary meaning associating
27 it with IMAGE ONE's business.

28 ///

1 59. Defendants have willfully developed, produced, adapted and distributed to the
2 public in this District and in other locations in the United States, promotional artwork and
3 advertising materials which appropriate IMAGE ONE's configuration, design and trade dress,
4 which has consisted of modified yellow page advertisements, created by IMAGE ONE, for their
5 clients, without the permission of IMAGE ONE. On many of these infringing advertisements
6 Defendants have willfully left the IMAGE ONE copyright symbol in place. These modified
7 advertisements are not representative of IMAGE ONE's quality work, and are in fact are poorly
8 composed and printed, as such these advertisements could be viewed by the public as
9 unprofessional work created by IMAGE ONE.

10 60. In addition, Defendants have willfully removed the IMAGE ONE copyright notation
11 from some IMAGE ONE artwork and advertising materials, and have copied the IMAGE ONE
12 designs while replacing the copyright notation with Defendants' own copyright notation, knowing
13 that the work was in fact created and copyright protected by IMAGE ONE.

14 61. Defendants have willfully placed their versions of the IMAGE ONE artwork in
15 interstate commerce, as they have reprinted and published yellow page advertisements for
16 businesses throughout the country, in numerous phone books nationwide and in yellow pages
17 websites on the internet. As such, Defendants have willfully passed-off IMAGE ONE artwork as
18 their own, thereby misleading the public into believing that said artwork is titled to and originated
19 with Defendants and/or their clients who purchased yellow page advertising space in Defendants'
20 published directories.

21 62. Defendants' conduct has confused and is likely to confuse the public and violates
22 15 U.S.C. § 1125(a), popularly titled Section 43(a) of the Lanham Act.

23 63. As a direct and proximate result of Defendants' wrongful acts alleged above,
24 IMAGE ONE seeks actual damages pursuant to Section 35 of the Lanham Act to compensate it for
25 the loss of profits that Defendants have caused, including Plaintiff's lost profits, damages incurred
26 as a result of the erosion of the market price for Plaintiff's work, loss of goodwill, and the expense
27 of any corrective advertising that may be needed to counteract the damage and to mitigate future
28 damages. To date, IMAGE ONE has discovered 12 advertisements published by Defendants that

1 are in violation of IMAGE ONE's Registered Works. In addition, on information and belief, these
2 discovered registered infringements Defendants have gained \$600,000.00 in profits, and Plaintiff
3 seeks a determination of the full amount of Defendants' profits as a result of said trademark
4 infringements, and an order determining the amount of Plaintiff's damages to include the
5 disgorgement of the Defendants' profits obtained by the infringement. As stated above, based upon
6 information and belief, IMAGE ONE alleges that approximately 2,484 additional violating
7 advertisements remain undiscovered. IMAGE ONE is informed and believes, and based thereon
8 alleges, the actual damages for the entire estimated 2,496 advertisements will total an estimated
9 \$374,250,000.00.

10 64. In addition to actual damages and lost profits, IMAGE ONE seeks recovery of
11 reasonable attorneys' fees and treble damages set forth under 15 U.S.C. § 1117 based on the
12 information and belief that Defendants' conduct was willful and intentional.

13 65. Finally, as a result of Defendants' acts, IMAGE ONE has suffered, and continues
14 to suffer, irreparable harm and injury as a result of Defendants' conduct as it did not benefit from
15 the sale of these advertising designs. In many cases the poor quality of the reproduction produced
16 an advertisement appearing far below IMAGE ONE's standards reflecting negatively on its
17 products and services. As many of these designs still have the IMAGE ONE mark, the
18 substandard quality of the reproduction negatively reflects on IMAGE ONE's otherwise quality
19 product, thus harming IMAGE ONE's business reputation. Accordingly, IMAGE ONE has no
20 adequate remedy at law, and is entitled to an injunction restraining Defendants, their officers,
21 directors, agents, employees, representatives, and all persons acting in concert with them, from
22 engaging in further acts of infringement, and from further commercially passing-off IMAGE
23 ONE's Trademark, Tradename, Service Mark and/or Trade Dress as belonging to Defendants.

24 **COUNT VI**

25 **(Unfair Competition Under California Business & Professions Code Section 17200)**

26 66. IMAGE ONE incorporates by reference paragraphs 1 through 65 herein above as
27 though the same were set forth in full herein.

28 ///

67. Defendants, and each of them, engaged in unlawful, unfair and fraudulent business practices and deceptive, untrue and misleading advertising in selling advertisements to Defendants' customers that violated Plaintiff's copyright and in representing such advertisements to be the property of Defendants which Defendants further represented that they could sell to Defendants' purchasers. In thus unfairly, falsely and fraudulently representing Plaintiff's art work to be the property of Defendants, and in misappropriating the use of said art work without Plaintiff's consent, Defendants engaged in unfair business practices in violation of California Business & Professions Code section 17200, and Plaintiff so alleges on its own behalf and on behalf of the general public.

69. Accordingly, Plaintiff further seeks an order enjoining all such unfair business practices by Defendants, their directors and officers, agents, servants, employees, and all other persons in active concert of privity or in participation with them, pursuant to Business & Professions Code section 17203.

67. As the proximate result of said unfair competition in violation of California Business & Professions Code section 17200, Defendants have been unjustly enriched, and Plaintiff is entitled to restitution and disgorgement of all profits that Defendants obtained as a result of said unfair competition pursuant to Business & Professions Code section 17203, in the amount of \$374,250,000.00 or according to proof.

WHEREFOR, Plaintiff prays for judgment as set forth below.

COUNT VI

(Civil Conspiracy)

68. IMAGE ONE incorporates by reference paragraphs 1 through 67 herein above as though the same were set forth in full herein.

69. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, entered into an agreement under which said defendants, acting in concert, agreed to willfully or knowingly engage in the acts of copyright infringement, trademark infringement, and unfair competition alleged above.

///

1 70. The acts of Defendants, and each of them, were in furtherance of a conspiracy to
2 violate a legal duty for their own personal financial gain.

3 71. Defendants had an independent duty to Plaintiff and all others similarly situated not
4 to engage in said conduct and their conduct involves a conspiracy to violate a legal duty in
5 furtherance of Defendants' financial gain.

6 72. Defendants at all times did the acts and things herein alleged pursuant to, and in
7 furtherance of, the conspiracy and agreement alleged above.

8 73. As a proximate result of the wrongful acts of Defendants, and each of them, Plaintiff
9 has been damaged as alleged hereinabove, in a sum according to proof, and seeks to recover said
10 damages, attorney's fees, costs, and pre-judgment interest from the Defendants, and each of them,
11 based upon said civil conspiracy.

12 WHEREFOR, Plaintiff prays for judgment as follows:

13 **PRAYER FOR RELIEF**

14 WHEREFORE, IMAGE ONE prays for judgment against Defendants, and each of them,
15 as follows:

16 **ON COUNT 1:**

17 1. That the Court find Defendants have infringed IMAGE ONE's copyrights in the
18 Subject Work;

19 2. That the Court find a substantial likelihood that Defendants will continue to infringe
20 IMAGE ONE's copyrights in the Subject Works unless enjoined from doing so;

21 3. That Defendants, their directors and officers, agents, servants, employees, and all
22 other persons in active concert of privity or in participation with them, be enjoined from directly
23 or indirectly infringing IMAGE ONE's copyrights in the Subject Works or continuing to market,
24 offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce, develop or manufacture
25 any works derived or copied from the Subject Work or to participate or assist in any such activity;

26 4. That Defendants, their directors and officers, agents, servants, employees, and all
27 other persons in active concert of privity or in participation with them, be enjoined to return to
28 IMAGE ONE any and all originals, copies, facsimiles, or duplicates of the subject work in their

1 possession, custody or control;

2 5. That Defendants, their directors and officers, agents, servants, employees, and all
3 other persons in active concert of privity or in participation with them, be enjoined to recall from
4 all distributors, wholesalers, jobbers, dealers, retailers, and distributors and all others known to
5 Defendants, any originals, copies, facsimiles, or duplicates of any work shown by the evidence to
6 infringe any copyright of the Subject Work;

7 6. That Defendants be enjoined to deliver upon oath, to be impounded during the
8 pendency of this action and destroyed pursuant to judgment herein, all originals, copies, facsimiles
9 or duplicates of any work shown by the evidence to infringe any copyright in the Subject Work;

10 7. That Defendants be required to file with the Court and serve on IMAGE ONE,
11 within 30 days after service of the Court's order as herein prayed, a report in writing under oath
12 setting forth in detail the manner and form in which Defendants have complied with the Court's
13 order;

14 8. That judgment be entered for IMAGE ONE and against Defendants for IMAGE
15 ONE's actual damages according to proof, and for any profits attributable to infringements of
16 IMAGE ONE's copyrights, in accordance with proof, in the sum of \$132,288,000.00 or according
17 to proof;

18 9. That judgment be entered for IMAGE ONE and against Defendants for statutory
19 damages based upon Defendants' acts of infringement, pursuant to the Copyright Act of 1976, 17
20 U.S.C. §§ 101 et seq, in the sum of \$374,250,000.00;

21 10. That Defendants be required to account for all gains, profits, and advantages derived
22 from its acts of infringement and for their other violations of law;

23 11. That all gains, profits and advantages derived by Defendants from their acts of
24 infringement and other violations of law be deemed to be held in constructive trust for the benefit
25 of IMAGE ONE, and that this Court order an accounting of all such gains, profits and advantages
26 subject to said trust so as to order all such assets disgorged to the Plaintiff;

27 12. That IMAGE ONE have judgment against Defendants for IMAGE ONE's costs and
28 attorneys' fees; and

1 13. That the Court grant such other, further, and different relief as the Court deems
2 proper under the circumstances.

3 **ON COUNTS II and III:**

4 1. That the Court find Defendants have vicariously and contributorily infringed
5 IMAGE ONE's copyrights in the Subject Work by facilitating the direct infringement of the
6 Subject Works engaged in by Defendants' advertising clients;

7 2. That the Court find a substantial likelihood that Defendants will continue to
8 vicariously and contributorily infringe IMAGE ONE's copyrights in the Subject Works unless
9 enjoined from doing so;

10 3. That Defendants, their directors and officers, agents, servants, employees, and all
11 other persons in active concert of privity or in participation with them, be enjoined from directly
12 or indirectly infringing IMAGE ONE's copyrights in the Subject Works or continuing to market,
13 offer, sell, dispose of, license, lease, transfer, display, advertise, reproduce, develop or manufacture
14 any works derived or copied from the Subject Work or to participate or assist in any such activity;

15 4. That Defendants, their directors and officers, agents, servants, employees, and all
16 other persons in active concert of privity or in participation with them, be enjoined to return to
17 IMAGE ONE any and all originals, copies, facsimiles, or duplicates of the Subject Work in their
18 possession, custody or control;

19 5. That Defendants, their directors and officers, agents, servants, employees, and all
20 other persons in active concert of privity or in participation with them, be enjoined to recall from
21 all distributors, wholesalers, jobbers, dealers, retailers, and distributors and all others known to
22 Defendants, any originals, copies, facsimiles, or duplicates of any work shown by the evidence to
23 infringe any copyright of the Subject Work;

24 6. That Defendants be enjoined to deliver upon oath, to be impounded during the
25 pendency of this action and destroyed pursuant to judgment herein, all originals, copies, facsimiles
26 or duplicates of any work shown by the evidence to infringe any copyright in the Subject Work;

27 7. That Defendants be required to file with the Court and serve on IMAGE ONE,
28 within 30 days after service of the Court's order as herein prayed, a report in writing under oath

1 setting forth in detail the manner and form in which Defendants have complied with the Court's
2 order;

3 8. That judgment be entered for IMAGE ONE and against Defendants for IMAGE
4 ONE's actual damages according to proof, and for any profits attributable to infringements of
5 IMAGE ONE's copyrights, in accordance with proof, in the sum of \$132,288,000.00 or according
6 to proof;

7 9. That judgment be entered for IMAGE ONE and against Defendants for statutory
8 damages based upon Defendants' acts of infringement, pursuant to the Copyright Act of 1976, 17
9 U.S.C. §§ 101 et seq, in the sum of \$374,250,000.00;

10 10. That Defendants be required to account for all gains, profits, and advantages derived
11 from their acts of infringement and for their other violations of law;

12 11. That all gains, profits and advantages derived by Defendants from their acts of
13 infringement and other violations of law be deemed to be held in constructive trust for the benefit
14 of IMAGE ONE, and that this Court order an accounting of all such gains, profits and advantages
15 subject to said trust so as to order all such assets disgorged to the Plaintiff;

16 12. That IMAGE ONE have judgment against Defendants for IMAGE ONE's costs and
17 attorneys' fees; and

18 13. That the Court grant such other, further, and different relief as the Court deems
19 proper under the circumstances.

20 **ON COUNT IV:**

21 1. That Defendants, their officers, agents and servants and all persons acting in concert
22 with them be temporarily restrained, preliminarily enjoined during the pendency of this action and
23 permanently enjoined thereafter from infringing in any manner, as well as passing off as its own,
24 IMAGE ONE's service marks, trade marks, and trade dress embodied in any and all of its original
25 artwork;

26 2. That Defendants, their officers, agents and servants and all persons acting in concert
27 with them be temporarily restrained, preliminarily enjoined during the pendency of this action and

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1 permanently enjoined thereafter from all false designation of the origin of trademarks, trade dresses
2 and service marks contained in IMAGE ONE's work;

3 3. That Defendants be required to deliver to the Court for impoundment and
4 destruction all materials that infringe IMAGE ONE's service marks, trademarks, and trade dress
5 embodied in any and all of their original artwork;

6 4. For actual damages and disgorgement of profits, according to proof at trial, in the
7 sum of \$374,250,000.00 pursuant to 17 U.S.C. § 1125 (a);

8 5. That all gains, profits and advantages derived by Defendants from their acts of
9 infringement and other violations of law be deemed to be held in constructive trust for the benefit
10 of IMAGE ONE, and that this Court order an accounting of all such gains, profits and advantages
11 subject to said trust so as to order all such assets disgorged to the Plaintiff;

12 6. For attorney's fees under 15 U.S.C. 1117;

13 7. For costs of suit incurred herein; and

14 8. For such other and further relief as the Court deems just and proper.

15 **ON COUNT V:**

16 1. That Defendants, their directors and officers, agents, servants, employees, and all
17 other persons in active concert of privity or in participation with them, be enjoined in the same
18 manner as sought for Counts 1 through IV, inclusive, in this Prayer for Relief;

19 2. That judgment be entered for IMAGE ONE and against Defendants, and each of
20 them, in the amount of all profits that Defendants obtained as a result of the unfair competition here
21 in issue, in the sum of \$374,250,000.00 or according to proof;

22 3. That all gains, profits and advantages derived by Defendants from their acts of
23 infringement and other violations of law be deemed to be held in constructive trust for the benefit
24 of IMAGE ONE, and that this Court order an accounting of all such gains, profits and advantages
25 subject to said trust so as to order all such assets disgorged to the Plaintiff;

26 4. That IMAGE ONE have judgment against Defendants for IMAGE ONE's costs of
27 court incurred herein; and

28 ///

1 5. That the Court grant such other, further, and different relief as the Court deems
2 proper under the circumstances.

3 **ON COUNT VI:**

4 1. For an order of this Court declaring that all of the Defendants, and each of them,
5 were parties to a civil conspiracy in furtherance of the actions alleged herein and that each of the
6 Defendants are thus jointly and severally liable to the Plaintiff for all damages awarded against any
7 of the Defendants under the various Counts of this Complaint, in the amount of \$374,250,000.00
8 or according to proof;


9 2. That all gains, profits and advantages derived by each of the Defendants from their
10 own and any other Defendant's acts of infringement and other violations of law be deemed to be
11 held in constructive trust for the benefit of IMAGE ONE, and that this Court order an accounting
12 of all such gains, profits and advantages subject to said trust so as to order all such assets disgorged
13 to the Plaintiff;

14 3. For attorney fees and costs of court incurred herein.

15
16 Dated: January 13, 2009

MILTNER LAW GROUP, APC

17
18 By:


William L. Miltner, Esq.
Walter E. Menck, Esq.
Teresa L. Polk, Esq.
Attorneys for Plaintiff LISA
McCONNELL, INC., d.b.a IMAGE ONE

21 [PLAINTIFFS DEMAND JURY TRIAL PER
22 F.R.C.P. 38]

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24
25
26 G:\4425\025\Pleadings\Image One v Idearc Complaint.wpd

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LISA McCONNELL, INC. d.b.a. IMAGE ONE IDEARC, INC. et. al.

(b) County of Residence of First Listed Plaintiff San Diego County, CA
(EXCEPT IN U.S. PLAINTIFF CASES)

'09 CV 0 061 IEG AJB

(c) Attorney's (Firm Name, Address, and Telephone Number)

Miltner Law Group, APC, 402 W. Broadway, Suite 800
San Diego, CA 92101, (619) 615-5333

DEFENDANTS

County of Residence of First Listed Defendant Dallas County, Texas
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

Unknown

JAN 13 2009

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

II. BASIS OF JURISDICTION

(Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES

(For Diversity Cases Only)

- Citizen of This State ☒ 1 PTF ☐ 1 DEF
Citizen of Another State ☐ 2 ☐ 2 Incorporated or Principal Place of Business In This State
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT

(Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input checked="" type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

Infringement of custom designed yellow pages ads

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE January 13, 2008

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

159016

AMOUNT

\$350

APPLYING IFP

JUDGE

MAG. JUDGE

TO 01/15/09

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

159016 - MB

**January 15, 2009
08:50:44**

Civ Fil Non-Pris

USAO #: 09CV0061 CIVIL FILING

Judge.: IRMA E GONZALEZ

Amount.:

\$350.00 CK

Check#: 13124

Total-> \$350.00

FROM: LISA MCCONNELL DBA IMAGE ONE
IDEARC VS